

Order

**Michigan Supreme Court
Lansing, Michigan**

November 23, 2010

Marilyn Kelly,
Chief Justice

ADM File No. 2007-18

Michael F. Cavanagh
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman
Diane M. Hathaway
Alton Thomas Davis,
Justices

Proposed Amendment of
Rule 2.117 of the Michigan
Court Rules

On order of the Court, this is to advise that the Court is considering an amendment of Rule 2.117 of the Michigan Court Rules. Before determining whether the proposal should be adopted, changed before adoption, or rejected, this notice is given to afford interested persons the opportunity to comment on the form or the merits of the proposal or to suggest alternatives. The Court welcomes the views of all. This matter also will be considered at a public hearing. The notices and agendas for public hearings are posted at www.courts.michigan.gov/supremecourt/Resources/Administrative/ph.htm.

Publication of this proposal does not mean that the Court will issue an order on the subject, nor does it imply probable adoption of the proposal in its present form.

[Additions are indicated by underlining and deletions are indicated by strikeover.]

Rule 2.117 Appearances

(A) [Unchanged.]

(B) Appearance by Attorney.

- (1) In General. An attorney may appear by an act indicating that the attorney represents a party in the action. An appearance by an attorney for a party is deemed an appearance by the party. Unless a particular rule indicates otherwise, any act required to be performed by a party may be performed by the attorney representing the party.
- (2) Notice of Appearance.
 - (a) If an appearance is made in a manner not involving the filing of a paper with the court, the attorney must promptly file a written appearance and

serve it on the parties entitled to service. The attorney's address and telephone number must be included in the appearance.

- (b) If an attorney files an appearance, but takes no other action toward prosecution or defense of the action, the appearance entitles the attorney to service of pleadings and papers as provided by MCR 2.107(A).

(3) Appearance by Law Firm.

- (a) A pleading, appearance, motion, or other paper filed by a law firm on behalf of a client is deemed the appearance of the individual attorney first filing a paper in the action. All notices required by these rules may be served on that individual. That attorney's appearance continues until an order of substitution or withdrawal is entered, or until the attorney's representation is terminated under subsection (C)(1). This subrule is not intended to prohibit other attorneys in the law firm from appearing in the action on behalf of the party.
- (b) The appearance of an attorney is deemed to be the appearance of every member of the law firm. Any attorney in the firm may be required by the court to conduct a court ordered conference or trial.

(C) Duration of Appearance by Attorney.

- (1) Unless otherwise stated or ordered by the court, and except as otherwise provided by these rules, an attorney's appearance applies only in the court in which it is made, or to which the action is transferred, until a final judgment is entered disposing of all claims by or against the party whom the attorney represents and the time for appeal of right has passed, or until the attorney notifies the attorney's client that the attorney is terminating representation of the client. Follow-up or ministerial acts performed by the attorney with regard to the client's file following notice of termination do not extend the attorney-client relationship. The appearance applies in an appeal taken before entry of final judgment by the trial court.
- (2) An attorney who has entered an appearance may withdraw from the action or be substituted for only on order of the court, or as allowed in subsection (C)(1).

Staff Comment: The proposed amendment would revise MCR 2.117 to provide that an attorney-client relationship continues until a final judgment is reached and the period allowed to appeal by right has expired unless the attorney discontinued the relationship before that time. Also the proposal would clarify that follow-up or ministerial actions performed by the attorney following notice of termination do not extend the attorney-client relationship.

The staff comment is not an authoritative construction by the Court.

A copy of this order will be given to the Secretary of the State Bar and to the State Court Administrator so that they can make the notifications specified in MCR 1.201. Comments on these proposals may be sent to the Supreme Court Clerk in writing or electronically by March 1, 2011, at P.O. Box 30052, Lansing, MI 48909, or MSC_clerk@courts.mi.gov. When filing a comment, please refer to ADM File No. 2007-18. Your comments and the comments of others will be posted at www.courts.mi.gov/supremecourt/resources/administrative/index.htm.



I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 23, 2010

Corbin R. Davis
Clerk